

Area-Wide Soil Contamination Task Force – Meeting 8
January 16, 2003, Ellensburg, WA

Meeting Summary

The Area-Wide Soil Contamination Task Force met for the eighth time on January 16, 2003 in Ellensburg. The objectives of this meeting were to:

- discuss approaches for broad-based education and awareness building activities
- review maps and accompanying information on the nature and extent of area-wide soil contamination
- discuss approaches for child-use areas and developed commercial properties in areas where elevated levels of arsenic and lead in soil are likely
- review draft text for the Task Force report regarding broad-based education and awareness building, responses in child-use areas, and responses at developed commercial properties
- decide on next steps for the Task Force subgroups, for public involvement for the project, and for discussions about the relationship between protective measure approaches and the Model Toxics Control Act (MTCA)

Overall Approach to Broad-Based Education and Awareness Building

Task Force member Craig Trueblood reviewed draft text for the Task Force report concerning an overall approach to protective measures and an approach for broad-based education and awareness building about area-wide soil contamination. He noted that recommended protective measures should be effective, affordable, and practical, and that there are several guiding principles for the selection of protective measures. These four guiding principles were:

- The level of risk associated with area-wide soil contamination appears to be low.
- Focus on exposure of children.
- Responses should increase as exposure increases.
- Decisions should be made locally.

Finally, Mr. Trueblood described a step-wise approach to education and awareness building, consisting of the following:

- Step 1: making overview materials about the issue of area-wide soil contamination available throughout the state
- Step 2: development and distribution of targeted informational materials and tools for particular audiences such as parents, daycare providers, schools, and gardeners
- Step 3: conducting additional outreach and education in locations where area-wide soil contamination exists (e.g., at schools or other child-use areas where elevated levels of arsenic and lead have been discovered)

The Task Force recommended the following changes to the draft text on protective measures:

- List the types of concerns (i.e., human health, environment, financial impact, liability, etc.) in the issue statement.

- Discuss the range of scientific views on arsenic and lead.
- Revise the language characterizing the risk as low to make it clearer and consistent with the paragraph describing the relationship between exposure and intensity of response. (A few Task Force members disagreed with the characterization of the risk as low and suggested that the description needed additional clarification.)
- Include effectiveness considerations in the guiding principles, along with practicality and affordability. (A few Task Force members expressed concerns that the draft text appeared to de-emphasize effectiveness considerations relative to practicality and affordability.)
- Include tribes, Spanish-speaking communities, and construction workers in the list of potential audiences for education activities.

A few Task Force members observed that for education to be effective, messages need to continue to be in front of the public, even when media attention has shifted. Task Force members also offered suggestions for regular training opportunities to reach particular audiences, such as a three clock-hour course for real estate professionals or STARS (State Training and Registry System) training for childcare providers. Furthermore, a few Task Force members noted the importance of conducting an evaluation of the effectiveness of the educational measures in terms of raising awareness and creating desired behavioral changes.

Suggestions for the Task Force Report

Based on the discussion of the approach to broad-based education and awareness building, Task Force members requested that the project team develop a draft outline for the Task Force report, in order to identify and track the components of the report that need to be developed. Linda Hoffman of the Department of Ecology (Ecology) observed that in general more, rather than less, detail was preferable in terms of giving the agencies guidance in the Task Force report. Based on the discussion of the protective measures text, Task Force members suggested that text on the following topics be developed and added to some part of the Task Force report:

- a description of the environmental, health, marketplace, and MTCA liability concerns related to area-wide soil contamination
- a statement that MTCA was designed to address “hot spots” of contamination or Superfund-like sites, rather than large areas of low-to-moderate level contamination
- a paragraph saying that although the Task Force discussed the MTCA cleanup levels for arsenic and lead, the Task Force is not the appropriate group to recommend changes to the cleanup levels

The draft outline will include placeholders for topics the Task Force has yet to discuss and/or draft text for inclusion in the Task Force report. Topics identified during this discussion included:

- ecological risk
- evaluation of the effectiveness of protective measures
- recommendations regarding real estate disclosure
- recommendations for construction and utility workers and others working in soil

Maps and Accompanying Information on the Location of Area-Wide Soil Contamination

Task Force member Ray Paoletta reviewed the nature and extent mapping package, consisting of tier 1 and tier 2 maps, a flowchart, and other accompanying information about area-wide soil contamination in Washington. The tier 1 maps are general state maps showing areas potentially affected by contamination from lead arsenate pesticide use or smelter emissions. Tier 2 information—which includes maps for each smelter site, a flowchart for determining the likelihood that a property has lead arsenate contamination, and example maps of historical orchards for two localities—provides more specific information on where area-wide soil contamination may exist. The maps are accompanied by text explaining how the maps were developed and how they should be interpreted.

Task Force members made the following suggestions to the nature and extent Task Force subgroup for improving the maps and accompanying information.

- Several Task Force members expressed concerns that the graphical display of the various smelter plumes was larger than that shown in other current documents. They wondered what the criteria were for selecting the level of contamination that determined plume boundaries on the map. A suggestion was made to reduce the size of the smelter-affected areas in the tier 1 smelter map to make them more consistent with other documents, such as the tier 2 smelter maps. Task Force members proposed that the nature and extent subgroup decide on criteria or guidelines for determining the size of the smelter plumes shown.
- Task Force members suggested refining the tier 1 lead arsenate map by excluding additional areas where lead arsenate contamination is unlikely (e.g., high elevations). Task Force members questioned the representation of potentially affected areas in Spokane county and only showing affected areas in counties with more than 15,000 acres potentially affected. The Task Force asked the subgroup to evaluate whether the refined map provides useful information in a clear way, or whether the Task Force should instead use a table and/or a map showing the number of acres potentially affected for each county, without indicating the potential locations of lead arsenate contamination within those counties.
- In general, Task Force members agreed that maps are important and that care should be taken to consider how the information on the maps will be interpreted and understood by readers, citing the Everett smelter and Spokane area depictions as examples. Suggestions were made to:
 - Revise the titles of the maps to accurately depict what is shown and to remove extraneous labels in the figures.
 - Modify the disclaimers on the maps to identify the specific source of the map and when it was developed.
 - Explain what the shading and wind-rose diagrams mean in the tier 2 smelter maps.

The Task Force was comfortable with the nature and extent mapping package, provided the changes are made to the maps. Next steps for the nature and extent subgroup include:

- finalizing the maps, particularly the tier 1 lead arsenate map, and accompanying text

- drafting text for the Task Force report on the nature and extent of area-wide soil contamination, including a recommendation about encouraging the development of more refined tier 2 maps for local areas where lead arsenate contamination is most likely

Institutional Frameworks and Funding Needs for Broad-Based Education and Responses in Child-Use Areas

Task Force member Paul Roberts gave an overview of the institutional frameworks Task Force subgroup's discussions on education and activities in child-use areas. He noted that the subgroup has been using a scenario-based approach to discuss institutional systems involved in each scenario and who might do what activities to respond to area-wide soil contamination, leveraging existing processes wherever possible. For broad-based education efforts, Mr. Roberts affirmed that exposure of children was a special focus. The institutional frameworks subgroup suggested that health districts would probably take the lead on providing information to residents and others, while local planning/building and other processes could be other means to convey information. Parents and schools would also need to be involved, at least informally, in responding to area-wide contamination. He said that it is important to consider that many daycares operate without licenses when developing recommendations for daycares. Mr. Roberts also noted that there are expenses associated with these activities and that the Task Force should ask itself where resources should be focused.

Task Force member Steve Gerritson reviewed initial estimates of funding needs for broad-based education efforts and responses in child-use areas in locations where area-wide soil contamination is most likely. He noted that the cost estimates are preliminary and based on the costs of what has been done elsewhere. Potential funding sources include Federal and State grant programs, foundations, or insurance options; however, there will be many other things competing for those resources. The subgroup plans to continue to refine the cost estimates, identify more creative options for funding, and discuss funding needs for other scenarios. Jude Van Buren of the Department of Health noted that funding for development of educational materials would allow the Department to participate as appropriate in that aspect of the broad-based education and awareness building efforts.

- Combined Institutional Frameworks and Funding Subgroup: Noting that the institutional frameworks and funding subgroups were on similar trajectories in their work, Bill Ross of Ross & Associates proposed and the Task Force supported that these two subgroups be combined for the purposes of future discussions.

Public Comments

There were three opportunities for public comment provided during the meeting, during which the following comments were made.

- Bonnie Meyer of Public Health – Seattle & King County provided an update on the education and outreach efforts being conducted in King County, including an upcoming workshop on environmental contaminants, and noted that Public Health – Seattle & King County has started to develop an evaluation to assess whether people are changing their behavior based on information in educational materials. She mentioned that they are in contact with pediatricians and nurses in order to get information to parents about the area-wide soil

contamination issues of concern. Later in the meeting, she also raised a concern about the effectiveness of using grass cover alone as a protective measure.

- Karen Pickett of Asarco noted that the size of the Tacoma smelter plume may be too large on the state map of smelter-affected areas, and that the costs of doing program evaluations to measure behavior change or awareness level can be very high, even as much as the cost of the program itself.
- Warren Hansen of On-Site Enterprises, Inc. (representing the Port of Seattle) requested that the Task Force look at protective measures for earth working projects and properties to be developed, and commented that it may be worth developing guidance for soil recyclers and soil disposers in terms of the State solid waste rule. The main concern raised is what to do with soils that need to be removed from the project site. They are finding it difficult to identify locations (other than landfills) where people are willing to accept soils.

Project Public Involvement Needs and Approaches

Task Force co-chairs Steve Kelley and Steve Gerritson proposed that they work with the chartering agencies and the consultant leading the project public involvement efforts, Sarah Hubbard Gray of Hubbard-Gray Consulting, to develop a plan for public involvement activities for the project. The co-chairs noted that public involvement is an important part of the Task Force process, but that the Task Force should neither solicit feedback from the public too early, when the Task Force has little to say, nor solicit feedback too late, when there is little opportunity for the public to influence the Task Force. The Task Force supported the co-chairs proposal for developing a plan for public involvement and will discuss this plan at the next Task Force meeting.

Agency Update on Other Arsenic and Lead Activities

Linda Hoffman of Ecology reviewed Ecology's recent activities related to arsenic and lead soil contamination, including the interim action cleanup at an elementary school in Wenatchee, sampling at schools in Okanogan County, plans for sampling of child-use areas in King County, and other activities related to the Everett and Tacoma smelter plume cleanups. She also encouraged the Task Force to use the agency updates as an opportunity to consider examples of current approaches and identify what is or is not working well. Dr. Jude Van Buren of the Department of Health reviewed the contents of a package of materials distributed to the Task Force regarding the health effects of arsenic and lead in soil. She encouraged Task Force members who have questions about the materials or requests for additional information to contact either the Department or the facilitation team. The Department of Agriculture did not have an update at this meeting.

A few Task Force members suggested that the Task Force should hear additional perspectives on health issues; the Task Force co-chairs proposed discussing this idea when planning public involvement activities for the project. In particular, Task Force members suggested that the Task Force should hear from Dr. Bill Robertson of the University of Washington about his perspectives on the health effects of exposure to arsenic and lead in soil. A few Task Force members observed that the agencies have not been providing information on current activities to the Task Force in a timely and useful manner so that the Task Force could learn from them. The agencies agreed to bring this information forward more effectively to support the subgroup and Task Force discussions.

Communication Report and Forecast

The Washington State Bar Association has requested an update on the Area-Wide Soil Contamination Project at its semi-annual continuing education conference in May. The Task Force co-chairs proposed discussing whether the Task Force should give a presentation on the project at this conference as part of planning the public involvement efforts for the project.

Responses in Child-Use Areas

Task Force member Mike Wearne reviewed some of the approaches the protective measures and institutional frameworks subgroups had discussed for responses in child-use areas, including informational materials, qualitative assessments to determine whether young children may be exposed to contaminated soil, sampling where appropriate, use of best management practices (BMPs), and implementation of other protective measures if warranted. He noted that the subgroup generally supported efforts to leverage existing institutional systems (for child-use areas and elsewhere) to implement recommended measures and generally preferred a voluntary approach. By way of example, Mr. Wearne explained that one institutional approach for responding to area-wide soil contamination at daycares might be to establish a certification program for daycares (possibly in conjunction with the daycare licensing process), similar to how health inspection stickers are used at restaurants in Oregon. He also noted that less than 25 percent of daycares in King County, and only 10 percent of daycares in the rest of the state, are licensed.

Other Task Force members observed that checklists or flowcharts (such as the lead arsenate contamination flowchart or a flowchart/checklist to determine exposure potential) could be useful for the qualitative assessments and asked the subgroup to work on this approach. The Task Force suggested that the institutional frameworks/funding subgroup continue the discussion of whether a voluntary or mandatory certification program would be useful and how that approach might relate to the licensing process for daycares.

A few Task Force members observed that the institutional frameworks subgroup had talked about a voluntary, rather than mandatory, approach for daycares, but that it might also be worth discussing how to provide accountability and certainty to parents to ensure that the appropriate actions are taken at child-use areas. There may be a need for more active involvement of the agencies for responses in child-use areas, for instance. The group also acknowledged that market-driven forces may act as a powerful driver for change and asked the institutional frameworks/funding subgroup to continue to consider this driver in its deliberations. The Task Force also observed that activities it recommends may ultimately be nested within a larger set of similar issues. Furthermore, Task Force members noted that the Task Force needed to think more about how the protective measures the Task Force is discussing for different scenarios would work with MTCA and whether different responses under MTCA might be warranted. Ecology asked the group to consider what the responsibility of the agencies would be if a voluntary approach does not prove to be successful. Ann Wick of the Department of Agriculture suggested that the Task Force consider issues of special concern for renters, such as their potential inability to effect action on their rental property, or to afford to move to another location.

The subgroup was also asked to consider if special actions need to be taken in child-use areas in agricultural areas (e.g., picker camps).

Approaches for Developed Commercial Areas

Task Force member Steve Kelley reviewed the draft text describing an approach for developed commercial areas, where exposure of young children is unlikely because children do not regularly play in commercial areas and commercial areas often are covered with impervious surfaces such as buildings, parking lots, or other man-made and maintained cover such as landscaping bark or gravel. He noted that the protective measures subgroup recommends that at developed commercial properties with these types of surfaces in place, no further responses are needed.

Mr. Kelley also showed the Task Force a series of photographs of developed commercial properties and commercial properties under development in the Wenatchee and Yakima areas. In response to these photographs, Task Force members suggested that construction and utility work should be considered as another scenario, because of the potential exposure of people working in soil on site as well as people downwind from construction sites. The Task Force learned that fugitive dust regulations for construction sites (enforced by local air authorities) and other building permit provisions are designed to limit potential exposure to dust at construction sites, but need to be enforced to work. Task Force members also had a discussion about the protective measures that were used at developed properties such as the Toyota site in Wenatchee, the “triggers” for cleanup, and heard some examples about how the MTCA cleanup process worked in different types of situations. The Task Force identified this as another area where the Task Force should discuss the “crosswalk” between MTCA and the recommended responses to area-wide soil contamination.

Real-Estate Disclosure Approaches

After the presentation on commercial areas, Task Force member Steve Kelley described the existing mandatory disclosure form for single-family homes and a voluntary environmental disclaimer form for vacant land which is being used in some areas of the state to provide information about the potential presence of pesticide contamination. He noted that disclosure forms are one way to educate and protect the buyer about the potential for contamination. Other disclosure approaches include plat notices, or statements on plats about the potential for contamination or other issue. He said that the approach used for lead-based paint disclosure might be a good model for the area-wide soil contamination issue.

The Task Force had some discussion of protective measures and institutional frameworks that might be used to respond to area-wide soil contamination on vacant land, but thought that the subgroups should continue this discussion for vacant land and other scenarios, including developed residential properties and environmentally sensitive areas. Some Task Force members raised concerns about the potential for lost real estate sales due to concerns of contamination on undeveloped land and expressed desire to develop strategies that would not discourage economic development. Others mentioned that it will be important to make sure that MTCA works effectively to resolve contamination issues on (commercial) sites.

- MTCA Subgroup: Task Force members discussed how to approach the issue of the crosswalk between MTCA and recommended activities to respond to area-wide soil contamination, and suggested that another small group should be formed to plan the MTCA discussions for the scenarios. This group would work with the agencies to identify the main

questions or issues needing resolution and example situations (either actual or hypothetical cases) to discuss for each scenario. Task Force members Laura Mrachek, Paul Roberts, Craig Trueblood, Loren Dunn, Ray Paoella, and Katherine Bridwell volunteered to participate in this group, which will be supported by agency and contractor support staff.

Next Steps

- The facilitation team will be in touch with Task Force members to schedule and help prepare for conference calls for the nature and extent, protective measures, institutional frameworks/funding, and MTCA planning Task Force subgroups.
- The nature and extent subgroup will refine the nature and extent maps and accompanying information and will draft text about the nature and extent of area-wide soil contamination for the Task Force report.
- The protective measures subgroup will revise the draft text on protective measures based on the Task Force's suggestions and continue its discussions of protective measures for other scenarios, including developed residential properties and vacant land.
- The institutional frameworks and funding subgroups will be combined into one group, which will continue to refine the recommended institutional approaches for child-use areas, discuss institutional approaches for other scenarios, revise the cost estimates for activities, and discuss additional options for funding the activities under consideration.
- The newly formed MTCA subgroup will plan the MTCA crosswalk discussions for the scenarios and start to discuss how the MTCA process should work for responses in child-use areas and at commercial properties.
- The Task Force co-chairs will work with the project team and the agencies to develop a proposal for public involvement for the project.
- The project team will develop a draft outline of the Task Force report and distribute this to the Task Force before the next meeting. The project team will also copy and distribute the real estate disclosure information that Steve Kelley discussed during the meeting.
- The next Task Force meetings will be on **March 6, 2003 in SeaTac:**
 - 9:00 a.m. - 4:00 p.m.
 - Seattle Marriott Hotel @ SeaTac
 - 3201 South 176th Street
 - Seattle, WA 98188-4094
 - Meeting Rooms D and E
- The location for the Task Force meeting on April 24 has not been determined, but will be east of the Cascade Mountains. Task Force meetings have not yet been scheduled in May or June.

Meeting Materials

- Agenda
- Summary of November 7, 2002 Task Force meeting
- Draft text on protective measures for use at the 1/16/03 Task Force meeting
- Information to Accompany Maps of Area-Wide Soil Contamination in Washington
- Tier 1 and Tier 2 Maps of Area-Wide Soil Contamination:
 - o Figure 1: Tier 1 Map of Areas Potentially Impacted by Historical Smelter Emissions

- Figure 2 (Option 1): Tier 1 Map of Areas Potentially Impacted by Historical Use of Lead Arsenate Pesticide
- Figure 2 (Option 2a): Tier 1 Map of Areas Potentially Impacted by Historical Use of Lead Arsenate Pesticide
- Figure 2 (Option 2b): Tier 1 Map of Areas Potentially Impacted by Historical Use of Lead Arsenate Pesticide
- Figure 3: Tier 2 Map of the Area Affected by Emissions from the Ruston/Tacoma Smelter
- Figure 4: Tier 2 Map of the Area Affected by Emissions from the Everett Smelter
- Figure 5: Tier 2 Map of the Area Affected by Emissions from the Harbor Island Smelter
- Figure 6: Tier 2 Map of the Area Potentially Affected by Emissions from the Northport and Trail, BC Smelters
- Example Map of Historical Orchards in the Lake Chelan/Manson Area of Chelan County
- Example Map of Historical Orchards in Yakima County
- Tier 2 Lead Arsenate Pesticide Flowchart
- Potential Activities to Respond to Area-Wide Soil Contamination table
- Potential Funding Sources for Responses to Area-Wide Soil Contamination table
- Funding Needs for Broad-Based Education and Awareness Building Activities
- Flyer for Public Health – Seattle & King County conference, “Children at Work and Play: Promoting a Healthy Environment, Avoiding Unseen Hazards,” on 2/1/03
- Department of Ecology Associated Lead and Arsenic Related Activities and Communications Update handout
- Background materials from the Department of Health on the health effects and exposure pathways of arsenic and lead
- Funding Needs for Responses in Child-Use Areas Where Elevated Levels are Likely
- Photographs of commercial properties developed (or being developed) on historical orchards in Wenatchee and Yakima (presentation)
- Environmental disclaimer form

Members in Attendance

Katherine Bridwell, SAFECO

Loren Dunn, Riddell Williams for Washington Environmental Council

Steve Gerritson, Sierra Club

Linda Hoffman, Washington State Department of Ecology

Steve Kelley, Windermere Real Estate, Wenatchee

Steve Marek, Tacoma/Pierce County Health Department

Laura Mrachek, Cascade Analytical

Ray Paoletta, City of Yakima

Frank Peryea, Washington State University Tree Fruit Research and Extension Center

Randy Phillips, Chelan-Douglas Health District

Paul Roberts, City of Everett

Ken Stanton, Douglas County Commission

Craig Trueblood, Preston Gates & Ellis

Jude Van Buren, Washington State Department of Health

Mike Wearne, Washington Mutual Bank

Ann Wick, Washington State Department of Agriculture

Members Unable to Attend

Jon DeJong, Wenatchee School District

Ted Gage, Washington State Office of Community Development

Jim Hazen, Washington Horticultural Association

Scott McKinnie, Far West Agribusiness Association
Marcia Riggers, Washington State Office of the Superintendent of Public Instruction

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